

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

LANDS –Hyderabad district - Proposal of the CCLA, Hyderabad / Estate Officer, Secunderabad on the representation of Geetha Apartment Owners' Association, West Marredpally, Secunderabad requesting for conversion for lease hold rights into freehold rights in respect of the plot of land measuring 600 Square Yards situated at Plot No.53, Road No.2, West Marredpally, Secunderabd basing on the orders of the Hon'ble High Court of AP Dated 26-08-2010 in WP No.6514/ 2001 filed by Geetha Apartments Owners' Association – Orders – Issued.

REVENUE (ASSIGNMENT –III) DEPARTMENT

G.O.Ms.No. 471

Dated: 24 -07-2012

READ: the following:-

- 1) G.O.Ms.No.816, Rev., Dated 09-08-1994.
- 2) GO.Ms.No.698, Rev., Dated 07-12-1995.
- 3) GO Ms.No.286, Rev., dated 09-04-1997
- 4) Representation of Geetha Apartments Owners' Association, Secunderabad
Dated: 25-06-1997
- 5) Govt.Memo.No.24896/ Assn.III/2/2001-1, Dated 12-11-2002.
- 6) From the Estate Officer, Secunderabad Lr.No.4/952, Dated 12-01-2005 addressed to the G.P., for Revenue/Assignments, High Court of AP., Hyderabad.
- 7) Govt.Memo.No.24896/ Assn.III/2/2001-3, Dated 08-04-2005.
- 8) Representation of Geetha Apartments Owners' Association, Secunderabad Dated 04-10-2010, together with a copy of the orders in WP No.6514/2001, Dated 26-08-2010
- 9) From the Chief Commissioner of Land Administration A.P. Hyderabad Lr.No.S4/ 609/ 2010, Dated 12-01-2011.
- 10) Govt.Memo.No.24896/ Assn.III/2/2001, Dated 02-02-2011.
- 11) From the Spl.CS & Chief Commissioner of Land Administration A.P. Hyderabad Lr.No.S4/ 609/ 2010, Dated 18-04-2011, together with a copy of the report of the Estate Officer, Secunderabad No.4/952, Dated:7-03-2011.

ORDER:-

In GO MS.No.816, Rev., dated 09-08-1994, Government approved the scheme for conversion of lease hold lands into fee hold in Secunderabad areas. The scheme was optional for a period of one year from the date of issue of the above order, and the same was extended upto 30-06-1997 for conversion of the lease hold rights into free hold rights.

2. Further, Government after examining the clarifications sought for by the Commissioner of Land Revenue vide Lr.No.BBL3/226/94, dated 28-11-1994, reviewed the scheme for conversion of lease hold lands into free hold in Secunderabad area and issued further orders vide GO Ms.No.698, Rev., dated 07-12-1995 with certain modifications and while extending the scheme for conversion of lease hold lands into free hold provided certain concession in respect of long standing leases and proposed action to proceed against lease holders for major violation of conditions of lease like sale of lease lands, construction of flats without approval. The said GO prohibited the registration of sale and other transactions of lease hold lands in Secunderabad area without prior permission of the competent authority. Further, the Municipal Corporation of Hyderabad was also directed not to grant any permission for building or alterations in respect of the leased premises in Secunderabad area in case of violation of lease conditions

3. In the reference 3rd read above, the President, Geetha Apartments Owner Association have submitted a representation before the Government and submitted that the lease of Plot No.53 measuring 600 Sq. yards at Road No.2, West Marredpally, Secunderabad, and the second extension of lease expires on 02-06-2002. The lease land is transferred in the name of M/s Geetha Apartments Owners Association, and the Owner of the land constructed the flats for residential purpose after obtaining necessary permissions. These are 16 flats in total and all of them are for residential purposes. Most of the owners are middle class Government employees. The Association has submitted an application to the Estate Officer, Secunderabad on 23-10-1996, for the conversion of lease hold land into Free hold land. The entire building is

used for residential purposes. The Estate Officer inspected the building and submitted the file to the District Collector, Hyderabad, and the District Collector has levied 20% of the notified land value of the locality as an additional compounding fee for two major violations as per GO Ms.No.816, Dated 09-08-1994. Further they have submitted that the owner of the land and builder has obtained all the Government sanctions/ permissions. Therefore they have submitted that all the Flat owners are middle class government employees and will not be able to pay the market value. Therefore they have requested the Government to consider the recommendations of the Collector, Hyderabad who levied 20% of the notified land value of the locality as an additional compounding fee for two major violations as per the GO Ms.No.816 dated 09-08-1994.

4. The Estate Officer, Secunderabad in his letter dated 07-03-2011 has reported that M/s Geetha Apartments Owners Association represented by its President of Plot No.53 situated at West Marredpally, Secunderabad while submitting the following documents, has requested for conversion of lease hold rights into free hold:-

- (1) Application with photos
- (2) Affidavit duly notarized
- (3) Indemnity bond duly notarized
- (4) Copy of the lease deed
- (5) Copy of the encumbrance certificate
- (6) Copy of the lease rent paid.'

5. On verification of records, it is revealed that the land measuring 5400 Sft in Plot No.53 situated at West Marredpally, Secunderabad was originally leased out vide L.D.No.1411, 08-06-1942 in favour of Sri Baldey Jagadishwaraiah for dwelling purpose for a period of 30 years commencing from 08-06-1942. Subsequently the following transactions were made:-

6. The period of lease executed expired by 07-06-1972. Subsequently the lease was renewed for 2nd term of 30 years vide L.D.No.4337, Dated 21-12-1982 in favour of Smt B. Varalakshmi, Wife of Sri B. Kumara Swamy. Transfer agreement was executed by smt B. Varalaxmi on 04-06-1986 in favour of Smt.B. Geetha wife of Sri B. Srinivas. But this transfer agreement was executed with the forged signature of the Secretary, Housing Board. Again the lease hold rights were transferred vide Transfer agreement dated 22-03-1988 in favour of M/s Geetha Apartments Owners Association represented by Smt Geetha, Wife of Sri B. Srinivas with the forged signature of the Secretary, Housing Board.

7. The lease is subsisting upto 08-06-2002 and the lessee has paid the lease rent upto date. The spot was inspected and during the inspection it was noticed that the lessee constructed the building consisting of ground floor plus 3 floors and the members of the Association are residing in the building. Proposals were submitted to convert by suggesting the following rates vide letter dated 04-02-1997:

(1)	residential rate for 600 Sq. yards @ Rs.140/- per sq. yard	.. Rs.84,000-00
(2)	Concession as per the GO Ms.No.698, Dated 07-12-1995	..Rs.6,720-00
	Total :	.. Rs.77,280-00
(3)	Additional Compounding fee @ Rs.20% basic value 950 x 600 x 20%.....	<u>Rs.1,14,000-00</u>
Net payable :	Rs.1,91,280-00

8. The Estate Officer, Secunderabad has also reported that the Spl.CS & CCLA, Hyderabad addressed the Secretary to Government vide Ref.No.BBL1/ 115/ 97, Dated 11-04-1997 stating that the lessee Smt B. Varalaxmi executed a TA on 4-06-1986 in favour of Smt B. Geetha W/o B. Srinivas. But it was detected as bogus transfer agreement issued with the forged signature of the Secretary, Housing Board. Again the lease hold rights were transferred vide bogus TS dated 22-03-1988 in favour of M/s Geetha Apartments Owners Association represented by Smt Geetha Wife of B.Srinivas with the forged signature of the Secretary, Housing Board. The CLR has further observed that the lessee has gone amuck and totally taken rules granted and illegally obtained land and built flats and sold them and in such a situation imposition of additional compounding fee only will not meet the ends of justice and at this stage it is not possible to resume ownership of the land to the Government and accordingly recommended to

charge present market value for the site for regularizing the transaction without allowing concession as is being given under GO Ms.No.698 (Rev) Dated 07-12-1995.

9. He has also reported that Government in Memo.No.24049/ Assn.III/1/97-2, Rev.Dept., Dated 14-11-1997 while referring to the CCLA reference and representation dated 11.4.1997 of the Geetha Apartments Owners Association, Secunderabad clarified that it is appropriate to regularize the transactions by charging the present market value for the land measuring 600 Square Yards in Plot No.53 situated at Marredpally.

10. Accordingly, CCLA vide Ref. No. BBL1/115/97, dated 28.3.1998 while returning the proposals requested the Estate Officer to send fresh proposals while adopting market value for calculating conversion charges along with revised check memo. The Market Value of the land was Rs.5,000/- per Square yard (in case of residential areas) and Rs.10,000/- per Square yard in case of commercial areas. Further, the market value in respect of the Buildings, Shops, Offices, Flats, vacant land and non-residential numbers be adopted the rate applicable to the respective leading roads of their location. In respect of all other non-residential numbers which are not falling on anyone of the leading roads, the market value have to be adopted one and half time of the market value, which would be Rs.7,500/- per Square Yard. Therefore, revised proposals and check memo were submitted adopting Rs.7,500/- per square yard vide letter dated 11.6.1998 amounting to Rs.45,00,000/-.

11. Sri G.Krishna Murthy, President, Geetha Apartments owners Association, Marredpally submitted a petition dated 4.11.1999 before the Government stating that they are middle class retired Government employees and will not be able to pay market value for the 600 Square yards and requested for imposing 20% additional compounding fee as recommended by the Collector – Hyderabad. The Government vide Memo. No. 56406/Assn.III(2)/99-2, Revenue Department, dated 11.12.2000 after careful examination of the matter decided to implement the orders issued vide Government Memo. No. 24049/Assn.III(1)/97-2, dated 14.11.1997 for regularizing the transactions by charging present market value without any concession.

12. Aggrieved by the above, the Geetha Apartments Owners Association filed W.P. No. 6514 of 2001 before the Hon'ble High Court of A.P challenging the Government Memo. No. 56404/Assn.III(2)/99-2, dated 11.12.2000 as contrary to the provisions contained in G.O. Ms. No. 816, dated 9.8.1994 for collecting the market value for regularizing the transaction by conversion of lease hold into free hold in respect of Plot No. 53, admeasuring 600 Square yards situated at Maredpally and to direct the respondents to issue order for conversion in terms of G.O. Ms. No. 816, by charging Rs.140/- per Square yard.

13. The Hon'ble High Court in its Order dated 26.8.2010 in WP No. 6514 of 2001 have passed the following orders:- (Operative portion):-

“The only question that arises for consideration is as to whether the petitioner-association is entitled for the benefit of the Go Ms.No.816, Rev., Dated 09-08-1994 as extended upto 30-06-1997 in GO Ms.No.286, Dated 09-04-1997 as per the representation dated 25-06-1997.

In the above facts and circumstances of the case, I am of the opinion that GO Ms.No.816, Dated 09-08-1994 does not indicate that leasehold lands cannot be converted into free hold lands for such major violations and in fact, the said GO covers all the aspects. A perusal of GO Ms.No.816, Dated 09-08-1994, makes it clear that in case of residences, which were converted into commercial purposes, such as commercial complexes / flats in violation of lease conditions, the rates applicable for commercial purposes as shown in Annexure-III, shall be levied. In case of major violations, where the violations are not in contravention of the zonal regulations of the HUDA and building byelaws of Municipal Corporation of Hyderabad, additional compounding fee as shown in Annexure-IV shall be levied subject to a minimum of Rs.1000/- marginal violation shall be ignored. In case of minor violations, penalty at the flat rate of Rs.1000/- shall be levied.

I am of the opinion that as long as the lands continued to be leasehold lands, the members of the petitioner-association are entitled for the benefit of GO Ms.No.816, Dated 09-08-1994, I am also of the opinion that the Government cannot clarify and reject the case of the petitioner directing it to pay the present market value without any reference to the Government order, which is illegal and unsustainable. As long as the said Government orders are in existence, not modified or rescinded or cancelled, the government is bound to follow its own orders.

Accordingly, the Writ Petition is allowed and setting aside the impugned orders and the 1st respondent (i.e. Principal Secretary to Government Revenue Department) to consider the representation of the petitioner-association dated 25.6.1997, which was referred to by the Government in its memo. dated 14.11.1997 and pass appropriate orders in accordance with G.O. Ms. No. 816, dated 9.8.1994 as amended and extended from time to time within four months from the date of receipt of a copy of the order.

14. In the reference 9th and 11th read above, the Spl.CS & CCLA, Hyderabad while communicating the orders of the Hon'ble High Court of AP dated 26-08-2010 and the representation of M/s Geetha Apartments Owners Association and the report of the Estate Officer, Secunderabad Dated 07-03-2011 has requested the Government to issue necessary orders.

15. In the circumstances/ recommendations reported by the Estate Officer, Secunderabad, as forwarded and recommended by the Spl.CS & CCLA, Hyderabad, and also to comply with the orders of the Hon'ble High Court of AP dated 26-08-2010 in WP No.6514/ 2001 filed by Geetha Apartments Owner Association, Government after careful examination of the matter, hereby order to consider the proposal for lease hold to free hold in respect of Plot No. 53 admeasuring 600 Square Yards situated at Marredpally Secunderabad in favour of Geetha Apartment owners Association in terms of the orders issued in GO Ms.No.816, Rev., Dated 09-08-1994 as amended, and on payment of Rs.1,91,280/- (Rupees One lakh ninety one thousand and two hundred eighty only) (including additional compounding fee @ 20% of the basic value), and as per other conditions in vogue.

16. The Spl.CS & CCLA, Hyderabad / Collector – Hyderabad district shall take further necessary action accordingly

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The Spl.CS & CCLA, Hyderabad
The Collector – Hyderabad dist.
The Estate Officer, Secunderabad.
The President, Geetha Apartments Owners Association
10-03-135/136, Plot No.53, Road No.2,
West Marredpally, Secunderabad 500 025
(through the Collector – Hyderabad)

Copy to:

The PS to Principal Secretary to Govt., Revenue
The OSD to Minister for Revenue
Stock-file.

//FORWARDED :: BY ORDER//

SECTION OFFICER